

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF ALABAMA
OFFICE OF THE CLERK
POST OFFICE BOX 711
MONTGOMERY, ALABAMA 36101-0711

DEBRA P. HACKETT, CLERK

TELEPHONE (334) 954-3600

April 15, 2008

NOTICE OF CORRECTION

From: Clerk's Office

Case Style: Roger Reeves vs. DSI Security Services, et al
Case Number: 1:07cv616-MHT

Pleading : #116-Response (Answer) to American Building Company's Motion to Summary Judgment

Notice of Correction is being filed this date to advise that the referenced pleading was conventionally filed on 4/8/08 without a signature on the Certificate of Service page.

This deficiency has been corrected. The corrected pleading is attached to this notice.

CASE 1:07-CV-00616-MHT-SRW

RECEIVED

2008 APR -8 A 9:58

DEBRA P. HACKETT, C.J.
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

Roger Reeves,
Plaintiff

V.

DSI Security Services,

et al,
Defendant

Plaintiff Roger Reeves

Answer to American Building Company's

Motion For Summary Judgment

Plaintiff did name American Building on his original Complaint and was told by EEOC that Complaint was sent to American Building. I was later screamed and yelled at by EEOC person that American was not my Employer. American is my employer as much as DSI is my Employer. Even if a prima facie case could not be establish against DSI one could be establish against American. Magistrate Judge did not look at all facts that shows joint employers. The case is in appellate Division.

116

Hostile environment charges were raised when Plaintiff stated that Management did not like and spoke against a couple (married) (black + white) derogatory and when they made negative comment about my carrying a Bible, that states a hostile environment.

Plaintiff is not a direct employee of American but American because of its control over Employee is his Employee also. (SEE DOCUMENT 10)

Exhibit A Number 12 Spitzer Declaration states that American knew nothing of my EEOC charge but DSI Lawyer stated under Penalty of Perjury that he met with American Personnel and told them that they were in ADR and could they come up with a raise. American said the best they could do was \$.50 in January. American has Perjured itself and has shown reckless disregard for the truth and rights of an employee. I think Judgment should be given to Plaintiff as a matter of law. (SEE DOCUMENT 1)

(PARAGRAPH 1, 2)
American had ample opportunity to have contributed to the settlement of my Charge in a positive manner if they wanted to. American is trying to commit a Fraud on the Court.

STATEMENT of Facts

(9) American plays a direct role daily in evaluating what DSI guards do. They report back to DSI every error we commit. I have been in meetings and have been shown Guard Logs in Error Reported to DSI. I was involve in a incident recently and I called the Police and made an entry into the Job Log ^{report} what happened.

American with retaliatory action had me discipline by DSI. I had to drive to Lathrop from Eufaula, Ala to be disciplined by DSI because American thought I deserved a stronger Discipline than DSI had given. They take direct part in the discipline actions. CSEE Document 12 American supervise DSI employees by tell them what to do and how to do it. Some of these includes

- (1) Locking Doors
- (2) Unlocking Doors
- (3) How To log Truck IN + OUT
- (4) Lowering & Raising Flag (HAIR STAFF)
- (5) Where to sit; Where not to sit

American has not shown itself to be truthful in these matters.

Other Acts of Hostile Work Environment

- (1) Allowing wearing of Confederate Flag on Clothing
- (2) Management not answering CB when Black person call until third or fourth time (American)
- (3) White Employee not coming out after hours when call at home for Emergency
- (4) Derogatory Remarks about Plaintiff AND his Bible
- (5) American Preference in assigning Hour (White over Plaintiff when White Person (Dale Jones) did not want to work. (John Howard)
- (6) No giving promised Raise when he said DSI had the Paperwork (John Howard made that statement)
- (7) Intimidating DSI management into writing a Bad Review. (John Howard) (MANAGEMENT)
- (8) Negative remarks about Previous Black Employee
- (9) Sending Plant Worker Out to Inspect Moped Floor

- (10) American Building has asked for specific employees to work. They have ask and assigned employees not in the protected class who did not want to work over Plaintiff who wanted to work.
- (11) Indirectly PSI Salary to guard are determine by the rate American pay PSI.
- (13) In original Complaint American was name as Employer and the Reference to John Howard is that of Personnel Coordinator of American Building. In complaint "other Employees from American have Received raises".
- (14, 15) Again America had knowledge and ample Opportunity via PSI Lawyer & Representatives. PSI Lawyer made Sworn ^{Statement} that he had Discussions with American and they tender an offer which they implemented \$1.50/second pay period in January 2007 (EEOC said Charge was sent to American Buildings) Two Counts of Discrimination ^{that} occurred on American Building Plant Site are alluded to in EEOC Documents. (SEE Document 2)
- Document 10 Shows Factor to Consider if one wants to determine if an employee is covered by discrimination law. By these standards I would be American Building Employee.

Document 11 shows Inquiry NO. 420-2006-03907N that answers were gleaned from along with Answer sent to EEOC. Also shown is a page from my file from EEOC that shows a reference to American Buildings Payroll information. If Americans had never been mentioned there would not be a reference to them in my file. Justice Kennedy states that the "Defendant should not be given a windfall because EEOC dropped" the ball or shows an inference of collusion with Americans.

Because American is a Hostile Work Environment and has committed said act I think these acts would prevent them from making logical and sound judgement. I think prejudice would prevent them from giving the promise or acknowledging that they (RAISE included) ever Promise ONE. (RAISE)

American because they are joint Employers
are equally liable under the law. They are liable for
the acts of discrimination that DSI created.

An adverse employment action does not have to
occur on Company property to be an adverse Employment
action. I suffered loss (financial loss) and lost
my right under EEOC (ADR). I would think that
would be quite an Adverse Employment Action.

Because of all the afore facts American Buildings
should not be granted Summary Judgment. (SEE ALSO
Reply To Magistrate Judge Recommendation": (DSI and American)).

The first paperwork sent to EEOC shows Race, Religion,
Pay. They did not put that information back in its
proper place and not showing it in my FOIF has shown
an inference of retaliation and collusion with American.

In the Reeves v. Sanderson case specially
 comment made by decision-makers indicating a discriminatory
 animus, but not made in context of employment decision,
 can still be highly probative evidence of discrimination.

In Abdu-Brisson (Abdu-Brisson v. Delta Airlines INC.)
 noted that while it is a common practice to show that
 a person was treated differently than other situated employees
 it is not the only way. It ruled that certain comments
 by the employer's management, provided the inference of...
 biased.

American management has made derogatory statements
 about mixed couple, ask for member not of protected class to work,
 dislike... employee with same religion are just a few reason
 that provide inference of biased.

There ~~is~~ is no reason to demonstrate pretext if the employer
 fails to articulate a legitimate reason. IN Glatz v.
 United States the pretext fits my case. In Pratt,
 et al v. City of Houston that the decision maker had
 favored white applicants on other occasions. It found
 Summary Judgment inappropriate. "No other Employee was
 treated in such a manner as myself".

(SEE DOCUMENT "Reply To Recommendations of Magistrate Judge (DSI, American) with accompanying Documentation. Falsity under Reeves is enough to defeat Summary Judgement and award Case to Plaintiff. Defendant have been caught lying (with evidence) & thereby Judgement should be awarded to Plaintiff as a matter of Law. Plaintiff is submitting Document that are notarized on last page of this Reply to show their realness (truthfulness).

Roger Reeves

4/7/08

Roger Reeves

I swear under Penalty of
Perjury that I am of sound mind
and that the afore fact are accurate
to the best of my knowledge

Roger Reeves

4/5/08

Roger Reeves

Sent this 7th
day of April, 2008

Alan Coughlin

ConnExp - 3-26-10

I hereby certify that on April 4, 2008
I filed the foregoing with the Clerk of the
Court and will send postage paid the same
to the following Persons:

David T. Wiley
Jackson Lewis LLP
First Commercial Bank Building
800 Shades Creek Parkway, Suite 870
Birmingham, AL 35209

Danielle J. Hyatt
Equal Employment Opportunity
Commission
1801 L St. N.W.
Washington, D.C. 20507

Daniel M. Shea
Paul R. Beshear
Nelson Mullins Riley &
Scarborough, LLP
999 Peachtree Street
NE 14th Floor
ATLANTA, Georgia 30309-3964

Roger Reeves

Document 1

Untitled

overturning a judgement. The court in Sutter v. Easterly, (Mo) 189 SW2d 284, articulated the general rule defining fraud on the court within the courts of Missouri:

"... Where a lawyer engages in a conspiracy to commit a fraud upon the court by the production of fabricated evidence and by such means obtains a judgement then the enforcement of the judgement becomes manifestly unconscionable' and a court of equity may devitalize the judgement." Id, at 288.

X In State of Missouri, v. Robert Joe Mason, 394 S.W.2d 343, and many other similar cases, it is accepted that if a party is caught cheating, that it can be inferred that their cause is an unrighteous one and that their conduct is evidence of their guilt.

X equitable estoppel

: an estoppel that prevents a person from adopting a new position that contradicts a previous position maintained by words, silence, or actions when allowing the new position to be adopted would unfairly harm another person who has relied on the previous position to his or her loss called also estoppel in pais

NOTE: Traditionally equitable estoppel required that the original position was a misrepresentation which was being denied in the new position. Some jurisdictions retain the requirement of misrepresentation.

promissory estoppel

: an estoppel that prevents a promisor from denying the existence of a promise when the promisee reasonably and foreseeably relies on the promise and to his or her loss acts or fails to act and suffers an injustice that can only be avoided by enforcement of the promise

Roger Reeves 091806 Intake Notes

PCP immediate supr John Howard
PCP was the only employees promised a wage
no mgmt personnel had ever said anything
direct to PCP about his religion.

{ A member of mgmt made a statement to
another employee about PCP's religion }

PCP believes this member of mgmt would play
a role in PCP receiving a wage increase.

Allen Wood - ^{religion - not known} Supr

John Howard - Personnel Coordinator
^{religion - not known}

of Security Guards - 4 including PCP

PCP is the only member of his faith

PCP not aware of the religion of the others

Race, Religion

At the present time all guards are Blacks
PCP is not present when the other Blacks
were at work.

{ Supr type made negative comments about a
White female who was married to a Black }

PCP not given a reason in June for the denial
of a raise.

Document 3

Untitled

overturning a judgement. The court in Sutter v. Easterly (Mo) 189 SW2d 284, articulated the general rule defining fraud on the court within the courts of Missouri:

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Document 110
Worker Status under the

ADA and other Federal Employment Discrimination Laws

The Equal Employment Opportunity Commission (EEOC) administers and enforces several federal employment discrimination protection laws including the Americans with Disabilities Act (ADA), Age Discrimination in Employment Act (ADEA), Title VII of the Civil Rights Act of 1964 (Title VII) and the Equal Pay Act (EPA). The EEOC's Enforcement Guidance on the Application of EEO Laws to Contingent Workers Placed by Temporary Employment Agencies and Other Staffing Firms" provides guidance regarding the application of the non-discrimination statutes to temporary, contract and other contingent workers.

In most circumstances, a staffing firm's workers are considered to be "employees" of that firm.

Test: A worker is a covered employee under federal non-discrimination statutes if the right to control the means the means and manner of his or her work performance rests with the staffing firm and/or its client rather than with the worker him/herself.

Status is Determined by Who Controls, Not Designations in Employment Contracts

Designations of worker status that may be used in employment contracts do not determine a worker's status. Consideration must be given to all aspects of the worker's relationship with the firm and the firm's clients. Many factors are considered in determining worker status. Most concern the question of control.

Factors Considered in Determination of Employee Status

Under the EEOC Guidance a worker determined to be an "employee" covered by federal employment discrimination laws if:

- The firm or client has the right to control when, where and how the worker performs the job;
- The work does not require a high level of skill or expertise
- The or firm or client rather than worker furnishes the tools, materials and equipment
- The work is performed on the premises of the firm or client
- There is a continuing relationship between the worker and the firm or client
- The firm/client sets the hours of work and duration of the job
- The worker is paid by the hour, week, or month rather than for the agreed cost of performing a particular job
- The worker has no role in hiring and paying assistants
- The work performed by the worker is part of the regular business of the firm or client

Document 10

- The firm or the client is itself in business
- The worker is not engaged in his or her own distinct occupation or business
- The firm or client provides the worker with benefits such as insurance, leave, or worker's compensation
- The worker is considered an employee of the firm or the client for tax purposes (i.e. the entity withholds federal, state and Social Security taxes)
- The firm or client can discharge the worker
- The worker and the firm or client believe that they are creating an employer-employee relationship

It should be noted that not all or even a majority of these criteria need be met . According to the EEOC Guidance, the fact-finder must make an assessment based on all of the circumstances in the relationship between the parties.

Joint Employment

If it is established that a staffing firm worker is an "employee", the question of "who is the worker's employer?" arises. The staffing firm and/or its client will qualify as the worker's employer(s) if one or both businesses have the right to exercise control over the worker's employment. No one factor is decisive, however. All factors involved with each employer must be considered. If either or both parties qualifies as the worker's employer, and if that employer has the statutory minimum number of employees, then it can be held liable for unlawful discriminatory conduct against the worker.

If both the staffing firm and its client have the right to control the worker, and both meet statutory minimum requirements, they are covered as "joint employers".

a. Staffing agencies and their workers generally qualify as employer-employee relationships because the firm typically hires the worker, determines when and where the worker should report to work, pays the wages, is itself in business, withholds taxes and social security, provides workers compensation coverage and has the right to discharge the worker. In addition, the intent of the parties typically is to establish an employer-employee relationship.

b. Business/ clients of staffing firms typically qualify as employers of the temporary worker during the job assignment, along with the agency, because the client usually exercises significant supervisory control over the worker.

For more details and examples see EEOC Guidance: Application of EEO Laws to Contingent Workers (EEOC Notice No. 915.002, December 3, 1997).



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Birmingham District Office

Ridge Park Place
1130 22nd Street, Suite 2000
Birmingham, AL 35205
(205) 212-2100
TTY (205) 212-2112
FAX (205) 212-2105

August 24, 2006

Our Reference:
Inquiry No. 420-2006-03907N

FILE COPY

Roger Reeves
B12 Chattahoochee Ct.
Eufaula, AL 36027

Dear Mr. Reeves:

Your inquiry to the Commission's National Call Center has been directed to this office. We cannot determine, from the information provided by the Call Center, whether or not your situation is covered by the laws enforced by this Commission. To assist us in making this determination, please respond in writing and under penalty of perjury to the questions propounded below:

1. When were you hired by the company? What is your job title and rate of pay?
2. State the amount of the raise you were promised. When was this promise made? By whom? What reason was given for your failure to receive the raise?
3. To what religious denomination do you belong? State the grounds for your belief that the failure to receive a raise is related to your religious belief.
4. State the name, race, and job title of the employees in your position who were awarded raises. State the name, race and job title of the employees in your position who were not awarded a raise.
5. State the full and correct corporate or business name of your employer. What is the nature of its business?

Your response is essential to the further consideration of this matter. If there is no response within thirty days of the date of this letter, the Commission will close its file referenced above and will take no further action. Please direct your response to the attention of Linda B. Poole, Investigator, at the above address. Please be advised that your contact with the Commission's National Call Center does not constitute the filing of a charge within the meaning of our statutes and that this agency will take no action until receipt of a writing bearing your signature.

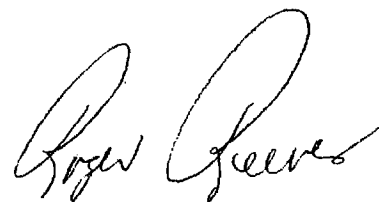
Sincerely,

A handwritten signature in black ink, appearing to read "Allen Gosa".

Allen Gosa
Enforcement Supervisor

RESPONCE TO INQUIRY NO. 420-2006-03907N

- (1) I was hired on Feb. 2, 2002. My JOB title was SECURITY GUARD and my rate of pay was \$6.25.
- (2) I was not told a specific rate of pay I would receive. A promise was made between Feb. 28 and June 30 of 2005 and 2006. The promise was made by Allen Wood in 2005 and John Howard and Allen Wood in 2006. In the year 2006 John Howard and a DSI Supervisor was suppose to sign some paper work stating that the raise was suppose to go through. There was no reason given why the paperwork was never signed.
- (3) I belong to a Pentecoastol Holiness Church. I was told by other Employees that Supervisors said that my Religion was a Problem.
- (4) No other employees has receives raises from this Branch. Other employees from American Buildings have receive rasies in this four year period.
- (5) The full name of the company I worked for is DSI SEQRITY SERVICES.

RECEIVED
SEP 11 2006

SEP 11 2006

SEP 11 2006

DOCUMENT 11

Exhibit #1: Copy of Charge

Exhibit #2: American Buildings Payroll Records Showing All Officers Making Same Pay

July 15

Security Camera
make a note
it

Stop working
for maintenance to check

September 30 Times that rounds were not done, the trucks
were leaving out for Monday delivery.

*

Dec 2/07 Started rounds and did not see Park Car
behind me and back into it with mail truck. Car
owned by Help Desk person. She call police. A
report was filled out by police.

Dec 29 Report Bad weather 5 o'clock round not
done. T.D.F.

Dec 31 Heavy rain, lightning and thunderstorms
throughout the night. All rounds made
within each hour.

Dec 31 I called DSI to reported that nobody
came to relieve me off duty at 6:10.
They told me to call back in 10 min.
so I did and Captain Smith said hold
on while he try to get somebody
to come in. Didn't make 6:00 round
waiting for relief.

Sheranda Laseter

Jan 4, 08 Plant workers arrived on site 3:25am.
Couldn't make 4+5 o'clock rounds in
warehouse plant + people working.

Sheranda Laseter